

# SENATE BILL No. 551

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-31.

**Synopsis:** Indiana health informatics corporation. Establishes the Indiana health informatics corporation (IHIC). Provides that the IHIC is a body politic and corporate. Requires the IHIC to encourage, facilitate, and assist in the development and operation of health informatics functions in Indiana. Provides that the IHIC is governed by a board consisting of the following seven members: (1) The secretary of family and social services, or the secretary's designee. (2) The state health commissioner, or the state health commissioner's designee. (3) Five individuals appointed by the governor. Authorizes the IHIC board to appoint any advisory panels that the board considers useful in advising the board and the corporation on issues determined by the board. Requires the IHIC to do the following: (1) Assist in the development of a statewide health information exchange system. (2) Assist users of the statewide health information exchange system and other interested parties in developing and adopting standards. (3) Develop programs and initiatives to promote and advance the exchange of health information. (4) Recommend policies and legislation that advance the development and efficient operation of the statewide health information exchange system. (5) Report on Indiana's progress toward implementing the statewide health information exchange system. Requires the IHIC's plan to create the statewide health information exchange system to provide for procedures and security policies to ensure compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), protection of information privacy, and the use of information in the system only in accordance with HIPAA and as required by public health agencies. Requires the

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**Effective:** Upon passage.

**Dillon**

January 23, 2007, read first time and referred to Committee on Economic Development and Technology.



state board of accounts to examine the IHIC and its funds, accounts, and financial affairs. Specifies that the IHIC is subject to the open door law and the public records law. Provides that the IHIC may adopt any necessary bylaws, rules, guidelines, and policies to carry out its duties without complying with the statutory rule adoption process. Provides that the IHIC shall determine qualifications, duties, compensation, and terms of service for persons employed by the IHIC. Prohibits the IHIC from issuing bonds or other debt obligations. Authorizes the IHIC to make grants, loans, and loan guarantees. Authorizes the IHIC to establish a nonprofit subsidiary to solicit and accept private sector funding. Provides that the IHIC is abolished on June 30, 2015.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## SENATE BILL No. 551

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A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-31 IS ADDED TO THE INDIANA CODE AS A  
2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON**  
3 **PASSAGE]:**

4 **ARTICLE 31. INDIANA HEALTH INFORMATICS**  
5 **CORPORATION**

6 **Chapter 1. Purpose**

7 **Sec. 1. (a) It is the intent of the general assembly to ensure and**  
8 **improve the health of the citizens of Indiana by encouraging,**  
9 **facilitating, and assisting in the development and operation of:**

10 **(1) a statewide system for the electronic exchange of health**  
11 **care information; and**

12 **(2) other health informatics functions in Indiana.**

13 **(b) The general assembly finds that the goals described in**  
14 **subsection (a) can be carried out and achieved most efficiently by**  
15 **a body politic and corporate.**



**Chapter 2. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Board" refers to the board of the corporation described in IC 5-31-4-1.**

**Sec. 3. "Corporation" refers to the Indiana health informatics corporation established by IC 5-31-3-1.**

**Sec. 4. "Health care provider" means:**

- (1) a physician, a hospital, a health facility (including health facilities under IC 16-28), a psychiatric hospital, an emergency ambulance service, a dentist, a registered or licensed practical nurse, a physician assistant, an optometrist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, or an emergency medical technician; and**
- (2) an agent of a person or an entity described in subdivision (1).**

**Sec. 5. "Health informatics" means the following:**

- (1) The electronic exchange of health care information between entities in the health care system, including at least the following:**
  - (A) Physicians and other health care providers.**
  - (B) Health insurance companies and health maintenance organizations.**
  - (C) Federal and state governmental health payers.**
  - (D) Employers.**
  - (E) Pharmacies and pharmacy benefit managers.**
  - (F) Laboratories.**
  - (G) Public health agencies.**
- (2) The provision of the most current, complete, and accurate information possible when making health care decisions regarding patients.**
- (3) The sharing and exchange of health care information between organizations that are owners or custodians of the health care information.**
- (4) The use of information technology to enable and improve the exchange and presentation of health care information.**
- (5) The adoption and use of electronic medical record technology, where appropriate, within the health care system.**
- (6) The reduction of total health care costs through improved quality and reduction in redundancies and administrative waste.**

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**Chapter 3. Indiana Health Informatics Corporation**

**Sec. 1. The Indiana health informatics corporation is established.**

**Sec. 2. (a) The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.**

**(b) The corporation and the corporation's funds, accounts, and financial affairs shall be examined biennially by the state board of accounts under IC 5-11.**

**Sec. 3. Employees of the corporation are not employees of the state.**

**Sec. 4. The board shall appoint the president of the corporation, who shall serve at the pleasure of the board.**

**Chapter 4. Corporation Board**

**Sec. 1. The corporation shall be governed by a board.**

**Sec. 2. (a) The board is composed of the following seven (7) members, none of whom may be a member of the general assembly:**

**(1) The secretary of family and social services, or the secretary's designee.**

**(2) The state health commissioner, or the state health commissioner's designee.**

**(3) Five (5) individuals appointed by the governor.**

**(b) The individuals appointed under subsection (a)(3) must be employed in or retired from the private or nonprofit sector or academia. In making the appointments under subsection (a)(3), the governor shall consider an individual's knowledge of and experience in matters related to health informatics.**

**Sec. 3. (a) The following apply to a member of the board appointed under section 2(a)(3) of this chapter:**

**(1) Except as provided in subsection (b), a member's term of office is four (4) years.**

**(2) A member holds office for the term of appointment and continues to serve after expiration of the appointment until a successor is appointed and qualified.**

**(3) A member is eligible for reappointment.**

**(4) Notwithstanding subdivisions (1) through (3), a member serves at the pleasure of the governor.**

**(b) Two (2) of the initial members of the board appointed under section 2(a)(3) of this chapter shall serve a term of two (2) years. Three (3) of the initial members of the board appointed under section 2(a)(3) of this chapter shall serve a term of four (4) years.**

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1       **Sec. 4. The governor shall select the chairperson of the board.**

2       **Sec. 5. (a) The members of the board appointed under section**  
 3       **2(a)(3) of this chapter are entitled to a salary per diem for**  
 4       **attending meetings equal to the per diem provided by law for**  
 5       **members of the general assembly.**

6       **(b) The members of the board are entitled to receive:**

7           **(1) reimbursement for traveling expenses to the same extent**  
 8           **as is provided under IC 4-13-1-4 to officers and employees of**  
 9           **state agencies; and**

10          **(2) reimbursement of other expenses actually incurred in**  
 11          **connection with the members' duties as approved by the**  
 12          **budget agency.**

13       **Sec. 6. Four (4) members of the board constitute a quorum for**  
 14       **the transaction of business. The affirmative vote of at least four (4)**  
 15       **members is necessary for action to be taken by the board.**  
 16       **Members may not vote by proxy.**

17       **Sec. 7. Meetings of the board shall be held at the call of the**  
 18       **chairperson or whenever any four (4) members request a meeting.**  
 19       **The members shall meet at least once every three (3) months to**  
 20       **attend to the business of the board.**

21       **Sec. 8. (a) This section applies to any meeting of the board.**

22       **(b) A member of the board may participate in a meeting of the**  
 23       **board using any means of communication that permits:**

24           **(1) all other board members participating in the meeting; and**  
 25           **(2) all members of the public physically present at the place**  
 26           **where the meeting is conducted;**

27       **to simultaneously communicate with each other during the**  
 28       **meeting.**

29       **(c) A member of the board who participates in a meeting under**  
 30       **subsection (b) is considered to be present at the meeting.**

31       **(d) The memorandum of the meeting prepared under**  
 32       **IC 5-14-1.5-4 must also state the name of:**

33           **(1) each member who was physically present at the place**  
 34           **where the meeting was conducted;**

35           **(2) each member who participated in the meeting using a**  
 36           **means of communication described in subsection (b); and**

37           **(3) each member who was absent.**

## 38       **Chapter 5. General Powers**

39       **Sec. 1. The corporation shall encourage, facilitate, and assist in**  
 40       **the development and operation of health informatics functions in**  
 41       **Indiana.**

42       **Sec. 2. The corporation is granted all powers necessary or**

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appropriate to carry out the corporation's public and corporate purposes under this article.

Sec. 3. (a) Subject to approval by the budget agency, the corporation may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, that the corporation considers necessary to carry out the efficient operation of the corporation.

(b) Subject to approval by the budget agency, the corporation may enter into contracts without the approval of the attorney general.

Sec. 4. (a) The corporation shall determine qualifications, duties, compensation, and terms of service for persons employed by the corporation as employees or as independent contractors.

(b) The board may adopt a resolution providing that the corporation's employees who are eligible to participate in the public employees' retirement fund under the eligibility requirements set forth in IC 5-10.2 and IC 5-10.3 shall participate in the public employees' retirement fund.

(c) The board may adopt a resolution to allow the corporation's employees to participate in group insurance and other benefit plans, including the state employees' deferred compensation plan, that are available to state employees.

Sec. 5. The board and the corporation's employees are:

(1) under the jurisdiction of and subject to rules adopted by the state ethics commission; and

(2) subject to ethics rules and requirements that apply to the executive branch of state government.

However, the board may adopt additional ethics rules and requirements that are more stringent than those adopted by the state ethics commission.

Sec. 6. (a) The board may create any advisory panels that the board considers useful to advise the board and the corporation on issues determined by the board.

(b) In creating an advisory panel to advise the board and the corporation on a particular issue, the board shall appoint advisers considered appropriate by the board. When the board determines the appropriate advisers to appoint to an advisory panel, the board shall consider the interests of at least the following health care system constituencies affected by the particular issue to be studied or reviewed by the advisory panel:

(1) Physicians.

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- (2) Insurers.
- (3) Health maintenance organizations.
- (4) Health care information systems.
- (5) Hospitals and health systems.
- (6) Laboratory services.
- (7) Radiological services.
- (8) Local health departments.
- (9) Rural health organizations.
- (10) Regional health information exchange organizations.
- (11) Pharmacies.
- (12) Pharmacy benefit managers.
- (13) Dentists.
- (14) Any other health care providers.
- (15) The budget director or the director's designee.
- (16) The commissioner of the department of insurance or the commissioner's designee.

Sec. 7. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the board and the corporation's employees are public employees (as defined in IC 34-6-2-38).

Sec. 8. The corporation may adopt, amend, and repeal bylaws, rules, guidelines, and policies to carry out its duties under this article without complying with IC 4-22-2.

Sec. 9. Except as otherwise specifically provided by law, the corporation and the board are subject to IC 5-14-1.5 and IC 5-14-3.

Sec. 10. An employee of the corporation is entitled to receive:

- (1) reimbursement for traveling expenses to the same extent as is provided under IC 4-13-1-4 to officers and employees of state agencies; and
- (2) reimbursement of other expenses actually incurred in connection with the employee's duties as approved by the budget agency.

Sec. 11. The corporation may request appropriations from the general assembly to:

- (1) carry out the corporation's duties under this article; and
- (2) fund the effort to develop and operate a statewide health information exchange.

Sec. 12. (a) The Indiana health informatics fund is established.

(b) Except as provided in section 13 of this chapter, the corporation shall deposit the following in the fund:

- (1) All appropriations made by the general assembly to the corporation.
- (2) All funding received from the private sector under

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1 IC 5-31-6-2(4).

2 (3) All other gifts, donations, bequests, devises, and  
3 contributions received by the corporation.

4 (c) The corporation shall administer the fund. The treasurer of  
5 state shall invest the money in the fund not currently needed to  
6 meet the obligations of the fund in the same manner as public  
7 money may be invested. Interest that accrues from these  
8 investments shall be deposited in the fund.

9 (d) Money in the fund at the end of a state fiscal year does not  
10 revert to the state general fund.

11 (e) Except as provided in the terms of a gift, donation,  
12 contribution, bequest, devise, or other private sector funding,  
13 money in the fund may be used at the discretion of the board to  
14 carry out in any manner the corporation's purposes under this  
15 article.

16 (f) Money in the fund is continuously appropriated to the  
17 corporation for the purposes of this article.

18 Sec. 13. (a) The board may establish a nonprofit subsidiary  
19 corporation to solicit and accept private sector funding, gifts,  
20 donations, bequests, contributions, and devises.

21 (b) A subsidiary corporation established under this section:

22 (1) must use money received under subsection (a) to carry out  
23 in any manner the purposes and programs under this article;  
24 (2) must report to the budget committee each year  
25 concerning:

26 (A) the use of money received under subsection (a); and

27 (B) the balances in any accounts or funds established by  
28 the subsidiary corporation; and

29 (3) may deposit money received under subsection (a) in an  
30 account or fund that is:

31 (A) administered by the subsidiary corporation; and

32 (B) not part of the state treasury.

33 (c) The state board of accounts shall annually audit a subsidiary  
34 corporation established under this section.

35 Sec. 14. The corporation may not issue bonds or any other debt  
36 obligations.

37 Sec. 15. The corporation may make grants, loans, and loan  
38 guarantees to carry out the purposes of this article.

#### 39 Chapter 6. Duties

40 Sec. 1. The corporation shall do the following:

41 (1) Define the vision for a statewide health information  
42 exchange system to electronically exchange health care

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information between entities in the health care system,  
including at least the following:

- (A) Physicians and other health care providers.
  - (B) Health insurance companies and health maintenance organizations.
  - (C) Federal and state governmental health payers.
  - (D) Employers.
  - (E) Pharmacies and pharmacy benefit managers.
  - (F) Laboratories.
  - (G) Public health agencies.
- (2) Prepare and modify, as necessary, a plan to create the statewide health information exchange system.
- (3) Encourage, facilitate, and assist in:
- (A) the development of the statewide health information exchange system; and
  - (B) the ongoing operation of the statewide health information exchange system, including monitoring the performance, quality, and security of the statewide health information exchange system.
- (4) Respond to changes in the market, advances in technology, and metrics related to the statewide health information exchange system by assisting users of the statewide health information exchange system and other interested parties in building upon, adapting, and improving the statewide health information exchange system.
- (5) Evaluate, analyze, and report on Indiana's progress toward implementing the statewide health information exchange system.
- (6) Promote the use of the statewide health information exchange system by doing the following:
- (A) Assisting users of the statewide health information exchange system and other interested parties in developing and adopting standards for the statewide health information exchange system.
  - (B) Recommending policies and legislation that advance the development and efficient operation of the statewide health information exchange system.
  - (C) Educating business and health care leaders and the public regarding the existence and benefits of the statewide health information exchange system.
- (7) Develop programs and initiatives to promote and advance the exchange of health information to improve the safety and

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quality of patient care and to reduce the waste associated with redundancy and administrative costs. The corporation shall do the following to carry out the corporation's duty under this subdivision:

(A) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana's information and technology resources.

(B) Receive and expend funds, grants, gifts and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and federal government. The corporation:

- (i) may accept federal grants to carry out the corporation's purposes;
- (ii) shall administer these grants in accordance with the terms of the grants; and
- (iii) may contract with public or private organizations to carry out the purposes for which the grants were made.

**Sec. 2. The corporation may do the following:**

(1) Plan, direct, and conduct research activities.

(2) Assist in:

(A) regional health information exchange planning; and

(B) the implementation of regional health information exchange;

designed to further the vision for a statewide health information exchange system.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(4) Solicit funding from the private sector for selected initiatives.

**Sec. 3. The corporation's plan to create the statewide health information exchange system must provide for procedures and security policies to ensure the following:**

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1           **(1) Compliance with the federal Health Insurance Portability**  
 2           **and Accountability Act (HIPAA) (P.L. 104-191).**  
 3           **(2) Protection of information privacy.**  
 4           **(3) Use of information in the statewide health information**  
 5           **exchange system only in accordance with the federal Health**  
 6           **Insurance Portability and Accountability Act (HIPAA)**  
 7           **(P.L.104-191) and as required by public health agencies.**  
 8           **Chapter 7. Expiration**  
 9           **Sec. 1. (a) The corporation is abolished on June 30, 2015.**  
 10           **(b) Any assets and obligations of the corporation are transferred**  
 11           **to the office of the secretary of family and social services on June**  
 12           **30, 2015.**  
 13           **Sec. 2. This article expires July 1, 2015.**  
 14           **SECTION 2. An emergency is declared for this act.**

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